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THE SICKLES TRIAL.

WASHINGTON, April 15.

Witness—The incident which I am about
to state occurred, I think, in the year 1810,
on the occasion of the death of Professor
Da Ponte, in New York. He was a kind of
patron and guardian of Sickles; or, rather
I might say that Sickles was regarded
by us students as his protégé—as one in
whom Da Ponte took a special interest with
regard to his education.

In the cemetery where Prof. Da Ponte
was buried, immediately after his body was
lowered into the ground, Sickles broke out
into a spasm of passionate grief and most
frantic energy; he raved and tore up and
down the grave-yard, shrieking, and I might
say, even yelling, so much so that it was
impossible for us, who were his friends, to
mollify him in any measure by words. We
were obliged to take hold of him and, by
friendly force, restrain him, and thus we
took him out of the cemetery. The demon-
stration that he made might be called one
of frantic grief. The impression I have is
that he tore his clothes and hair. I can-
not swear positively as to that; the other
facts are very indelibly impressed on my
mind.

Cross-examined by Mr. Ould:—Cannot
tell precisely what was Mr. Sickles' age at
the time of that occurrence. It was in '40
cannot say how long this frantic grief last-
ed—somewhere between 4 and 10 minutes;
saw no trace of it the day following; two or
three days afterwards did not notice any-
thing extraordinary or unusual in his ap-
pearance. I might say possibly that he ap-
peared to be rather light-headed and ap-
parently too much so under the circumstances;
his light-headedness seemed unusual in
contrast with the grief he had exhibited
two days before; with respect to the first
manifestation it was the most remarkable
one I ever saw. I have been in the ministry
for several years and have never seen any-
thing like it.

Major Hopkins' coachman: Saw Key on
Sunday morning; he was shot about half-
past one; saw Key in the middle of Lata-
ette square, walking back and forth two or
three times to Jackson street; that was all
I saw on Sunday; did not see him on Mon-
day or Wednesday, before the shooting he
walked past me five or six times; saw him
wave his handkerchief two or three times;
Mrs. S. came out and joined him at the cor-
ner of H. street and Madison place; saw
them go up Fifteenth street and lost sight
of them on the steps of John Gray.

Did you know her?
To the best of my opinion it was Mrs.
Sickles.

Mrs. Nancy Brown, a middle-aged wo-
man, was next placed on the stand. As the
oath was administered to her, she said she
did not hear it distinctly, and wanted to un-
derstand it; she drew near the clerk and took
the oath.

Examined by Mr. Brady—I live on Fif-
teenth street; my husband is the President's
gardener; I know Mr. Key; I saw him on
the Wednesday before he was shot.

"Where did you see him?"
Witness—I saw him—

Mr. Carlisle—Stop, stop.
Witness, [hurriedly]—I saw him enter the
house, on Fifteenth street, next to mine.

The witness' determination to be heard,
excited laughter among the crowd.
Mr. Ould—It is time that objections be
raised to these attempts to prove the al-
leged adultery between the deceased and pri-
soner's wife. If this is a link in the chain
of proof that is designed to establish, no
such testimony as this can be received in
evidence.

Mr. Brady contended that they had a
right to prove that Mr. Key and Mrs. Sick-
les were having adulterous communication,
and he would insist that Key was killed in
an act of adultery within the meaning
of the law. He offered this evidence—
first, to prove an adulterous intercourse and
connection carried on between Key and
Mrs. Sickles, by a standing agreement be-
tween them, dating further back than the
hiring of the house on Fifteenth street, and
connected with the hiring and furnishing of
that house, and they would claim that where
an adulterer hires a house and takes to it,

the wife of another man, daily or weekly,
or whenever he could get her to go there,
that it was a case of habitual adultery. In
other words, he said that when a man and
woman go habitually to a house for the pur-
pose of adultery, they are living in adultery
all the time, and it was not necessary for
the husband to wait for the disgusting
exhibition of his own dishonor, to play the
gorged and satiated and brutal adulterer.

Mr. Carlisle replied at some length. He
contended that actual, not presumptive ad-
ultery, would alone reduce the act of killing
to manslaughter. If it is not done at the
very instant of seeing the crime committed,
but after waiting till it is over, the motive
is revenge, and the killing is murder. This
discussion continued until the hour of ad-
journment.

WASHINGTON, April 16.

Mr. Graham contended that the counsel
for the defense had the right to extend the
line of proof in regard to the adulterous in-
tercourse. They had traced the steps of
the guilty parties from the rendezvous in
the street to the house of their secret meet-
ings, and they should be permitted to go in
and show what happened there. The counsel
for the prosecution were evidently ex-
perimenting with the defense; but there
was an avalanche of testimony coming. The
prosecution knew it, and cried out to the
court to stay it, but he knew the court
would not stay it. It would stultify itself
if it did so.

Mr. Graham spoke till half-past one o'-
clock, when Mr. Ould rose to reply, which
he did at great length. The argument was
continued until the adjournment, no further
progress being made in the case, which will
be resumed on Monday morning.

We are requested on the part of Mr. Sick-
les to state that he deeply regrets, for
many reasons, but particularly for the sake
of his child, who must one day read the re-
cord of her mother's shame, that the con-
fession of Mrs. Sickles was published. The
publication was contrary to his wishes, and
if it had been within his power he would
have suppressed it.

WASHINGTON, April 18.

The Court opened at the usual time, a
large audience being in attendance. Dis-
trict Attorney Ould proceeded to close his
argument against the admissibility of the
evidence to prove adultery. He had been
endeavoring, he said, when he closed his
remarks on Saturday, to show the facts of-
fered in evidence on the part of the defense,
did not amount to legal provocation, much
less to justification, and that the questions
of provocation, justification, and cooling time
were legal questions. He had been inter-
rupted, multiply, of course, by a question
from Mr. Brady, asking on what were the
jury to pass if the Court determined the
justification and the cooling time. It was
the duty of the jury, he held, to pass upon
the facts as connected with the killing, and
to apply the law enunciated by the Court
with reference to justification, provocation,
and cooling time. The Court has its pecu-
liar functions, and so has the jury. If there
were no other questions in the case, that was
the fault of the incidents attaching to the
case. The jury is to pass upon the truth of
the facts offered. Their sufficiency in law
was a question exclusively for the Court.

It the Court decided that they were suffi-
cient in law, then the question of their
truth went before the jury; but if the Court
decided that they were not sufficient in law,
then, of course, they did not go before the
jury.

Brady. We utterly refuse to enter into
any discussion of any question at this time,
except what relates to the particular point
before your honor for determination. We
offered to prove habitual adultery; objection
was made to that as justification, provocation,
and cooling time. We propose to be
heard at a future stage in asking the court
for instructions, and we mean to insist that
the jury are the judges of the law and of the
facts, but that time has not arrived yet.

Ould—I certainly misunderstood the ar-
gument of counsel if the questions of jus-
tification, provocation, and cooling time were
not now before the Court.

Phillips—If the evidence has a tendency
towards justification that is sufficient.

District Attorney—Held that it had no
such tendency, for in law the facts amount-
ed neither to justification nor provocation.
In the case cited by the other side—Man-
ning's case—the question of provocation
was before the court, and the court there
declared what would be and would not be
sufficient provocation. Did not every court
in cases of murder necessarily decide upon
the sufficiency of evidence to constitute legal
provocation in law? Undoubtedly it did.
Here the facts sought to be put in evidence
were admitted, but the question was whether
they amounted to provocation or a justifi-
cation. The same doctrine came up in-
cidentally in Selfridge's case as to the ef-
fect that the law ought to give and what
the jury must give to certain questions
affecting honor and dishonor, and there the
court decided the question; counsel referred
to second volume of Archbold's Criminal
Practice. Ould, resuming, replied to the
proposition of Phillips that the evidence
was competent for rebutting malice. That
he thought was begging the question.—
Was the evidence of such a character on
its face as would be a legal rebuttal of mal-
ice? If not it was not competent. It had
also been argued that the evidence was not
competent as affecting the question whether

the passion of the prisoner was real or feign-
ed. It was immaterial for the jury to find
out whether it was real or feigned. It had
been also argued that the deceased was
giving the signal of adultery, and that there-
fore the evidence was competent, but if, as
the prosecution held, the adultery itself was
not a legal provocation or justification, how
could an invitation to adultery be? The
other learned counsel (Graham) had argued
that the evidence of adultery was al-
ways properly before the court. That was
not so. He contended that where such
evidence was admitted it was admitted only
as part of the Res Gestæ.

Judge—In the case of Fisher (8 Carrington
& Paine,) the whole case is detailed;
the interview between the father and the
man in whose house the crime was com-
mitted. It was committed more than once and
yet all the circumstances were gone into,
so that there it was impossible that the facts
proved could have been part of the Res
Gestæ.

District Attorney—The case in Iredell
was precisely the kind of case alluded to.
Graham—There all the proofs were got
in.

District Attorney—They were made a
part of the evidence of prosecution and
were put in as evidence connected with the
homicide.

Counsel challenged the defence to point
out a case where objection made to such
evidence was not sustained.

Mr. Graham—Would it be proper to kill
a man to prevent him committing assault
and battery?

The District Attorney proceeded to argue
that the testimony in regard to the handker-
chief did not connect the parties with ad-
ulterous intercourse; this was, therefore,
not a proposition to continue evidence al-
ready partially given, but to give new evi-
dence on a distinct point; he held to his po-
sition that it was for the court and the
court alone to pass upon the nature of the
evidence offered; it was only for the jury to
pass upon the facts allowed to be given in
evidence. The trial by jury is a creature of
the common law, and when the Constitu-
tion of the United States gave to the ar-
raigned the privilege of trial by jury, it
gave him the trial by jury in accordance
with the course of the common law, and in
no other way; that common law had been
announced by Hale and Foster and East
and others, and what he contended for was
one of the principles of that common law.

The Judge has just delivered the opin-
ion of the Court, declaring the evidence
showing the adulterous communication ex-
isting between Mr. Key and Mrs. Sickles
inadmissible. Mrs. Nancy Brown was ac-
cordingly re-called. It had been alleged by
defense that the case now presented was an-
alogous to that of Jarboe; he proceeded to
show that no such analogy existed in the
case now before Court. The prisoner made
declaration at the time of homicide. "He
has defiled my bed." The declaration of the
prisoner explained itself, and therefore no
evidence was necessary to elucidate it. The
facts themselves carried no further impres-
sion to human mind than the expression it-
self does.

His Honor, in Herbert's case, drew a dis-
tinction between declarations made by the
deceased and those made by the prisoner;
otherwise a party might manufacture testi-
mony in his own case, while no such ob-
jection could possibly apply to the declara-
tion of the deceased. He insisted that the
instruction of the Court in Jarboe's case
applied to this case here—namely, that the
facts did not justify the act or constitute a
legal provocation, and that the killing was
murder. The last ground on which this
evidence had been urged on the ground of
its being "Res Gestæ"—that it was compe-
tent as explaining the declaration of the
prisoner that the deceased had violated his
bed. The declaration itself was part of the
Res Gestæ, and was not receivable, but the
evidence of the truth of the declaration was
not Res Gestæ, and was receivable. The
Judge delivered his opinion, declaring the
evidence inadmissible.

Mrs. Nancy Brown was accordingly re-
called and examined by Ratcliffe: Was suf-
ficiently acquainted with Key to know him;
the last time I saw him was on Wednesday
before he was shot, when he went into the
house on Fifteenth street; saw him take
a key out of his pocket, unlock the door
and go in; he came out in about an hour.—
I am acquainted with Mrs. S.; saw him go
backward and forward after I saw her go in
and then out the back way; he would not
come out the front door.

Question—How long were they in the
house?

Answer—About an hour.
Question—How did you know it was Mrs.
S.?

Answer—I inquired at different times; I
saw Mrs. S. at her own house after that;
then other persons were present; she was
the lady I had seen go in the brick house.
Question—How often had you before that
Wednesday seen her go into that house?

Answer—I saw her go in three times be-
fore; when he unlocked the door and took
the key from his pocket; saw Mrs. Sickles
go with him and have hold of his arm, ex-
cept the Wednesday before Key was killed.

Question—What time elapsed between
these three times you saw them go into the
house?

Answer—About a week; I saw them go in

three times within three weeks; Key came
up to my door in Oct.; he rode up; he step-
ped on the porch and asked me whether
the house was occupied; I said no; he asked
me who the house belonged to; I told him
a colored man named John Gray, and he
lived somewhere on Capitol Hill, and that
colored people could give him all the infor-
mation.

Mr. Brady showed to the jury the lock of
the door of the assignation house, which was
fitted by one of the keys found in the pocket
of the deceased.

Policeman Mann was called and testified.
I have been in house No. 383 Fifteenth
street; I was in it on the Monday following
Mr. Key's death; lawyers Magruder and
Ratcliffe were with me; I found there a
shawl, a pair of gloves, a comb, and some
cigarrettes; I found the shawl on the bed in
the front room. [The witness here identi-
fied the shawl produced in court, as the one
found in the room.] There were two rooms
in the second story; I saw a bed and bed-
ding in the back room, also a bureau, a
washstand, and some soiled towels; the bed
was not made, the bed in the front room was
not made; I got into the house the back
way through the window; Mr. Ratcliffe and
Mr. Magruder went in the front door; I
opened it with the side door key; a colored
woman raised the window; I left the house
the way I came.

Dan's Ratcliffe, one of the counsel for the
defense, stated the necessity of ascertain-
ing the truth and Mr. Magruder and myself
resolved to go to the house in Fifteenth etc.;
I got a man to go along; Policeman Mann
was selected to accompany us; we found the bed
in confusion, and shawl on it that we thought
belonged to Key; saw some cigarrettes, a
comb, and pair of gloves; Mr. Mann took
them all.

John M. Seeley was re-called.—My at-
tention was first called to the visits of Key
and Mrs. Sickles to the house, sometime
last January; I have seen them there many
times; I did not notice a shawl on him; the
first time I saw them, Key unlocked the door
and let Mrs. Sickles in; they walked there;
the door was shut after they got in, seeing
that I watched for them; this was on Wed-
nesday the 12th of February, say at about
10 o'clock; they passed before me; they
went to the door, unlocked it and went in;
Mrs. Sickles threw up her veil and looked at
me; I had known Key for a long time; I
saw them afterwards come out, but separat-
ely, with an interval of five minutes; Key
passed down the street and she went to-
wards her home, in an opposite direction; I
next saw them on Sunday, the 20th day of
February, about 1 o'clock; Key went alone
to the front door; there was no lady with
him; I went into my house and looked out of
the window; I saw Mrs. Sickles come along
the alley and go in the back way; Key met
her in the yard; they went in, I am
certain, and remained there some time; Mrs.
Sickles went out the back way as she had
gone in; I did not see Key go out; Wednes-
day February 23d; was the last time I saw
Mrs. Sickles go into the back gate, about 3
o'clock in the afternoon; I did not see Key
at all that day; I never saw any visitors
at the house except Key and Mrs. Sickles; I
went saw Mrs. Sickles about eight days after
the death of Key, and identified her as the
person whom I had seen go to the house.

To Mr. Ould—I had seen Mrs. Sickles
at times in other sections of the city, and I
knew her general appearance—her dress
and her figure. The walking about the
house was often extremely invidious.

Mrs. Seeley, wife of the witness, was cal-
led and corroborated his statements. Mrs.
Sickles appeared excited at the time I saw
her. On Wednesday I saw no one enter
the house except Mr. Key and Mrs. Sickles.
I told Mr. Hart I wanted to see Mrs. Sick-
les. When I saw her I asked her if she was
not the same person I had seen, on the
Wednesday previous, in the alley. She said
she was. Mrs. Sickles recognized my daugh-
ter, and asked her if she was not looking out
of the window on the alley at her on
Wednesday.

Hon. John B. Haskin was called and tes-
tified. I visited Mrs. Sickles in April 1858
at her own house. Mr. Sickles had asked
me to see if she wanted anything while he
was gone. I called abruptly, as I was going
to Georgetown with my family. I rushed
in without knocking—I saw Mr. Key and
Mrs. Sickles seated in the laboratory at a
round table with a bowl of salad and some
wine. They were eating and drinking. I
apologized for my abrupt entrance and went
out soon. Mrs. Sickles was flushed. Mrs.
Haskin said to me—"Mrs. Sickles is a bad
woman."

The Court then adjourned until to-mor-
row.

WASHINGTON, April 19.

Judge Crawford took his seat on the bench
at 10:20 o'clock, and after an interval of
several minutes wasted in complete silence,
Sickles came in accompanied by the jailer
and officers.

The Judge's decision yesterday admitting
evidence took all by surprise. This deci-
sion hardly covers the admission of rebutting
evidence. The defence will be through to-
morrow, and the trial will probably be over
this day week. Two counsel sum up on
each side. No charge from the Judge in
this District.

John Thompson, at one time coachman
of Mr. Sickles. Left Mr. Sickles' employ
on the 4th February, 1859. Was ac-
quainted with Key by seeing him and driving

him. Mrs. Sickles went from the house in
the carriage alone. She went mostly
from 12 to 1, and remained till 4 or 5. Key
always joined Mrs. Sickles in the street;
could hardly mention a day that he did not
meet us. Sometimes he would come into
the carriage and tell me to drive through
back streets. When he met us, he would
always salute Mrs. Sickles, and say "Good-
morning, madam." Sometimes he would
remain on horseback, and sometimes dis-
mount. He never got in the carriage at
Sickles' door, and always but once got out
before we got back to the house. He al-
ways got out at the corner of the avenue and
13th street, at the Club House. I knew
him only once to come home with Sickles
that was in April or May of last year. He
went into the house; could not say when he
came out. I have known Key to come to
the house while Sickles was absent in New
York. He always came at dusk. Knew
him to be there every night almost. Some-
times I knew him to remain there late at
night. Other times did not know how long
he would remain. He and Mrs. S. always
remained in the study. The door was shut
while they were there. There was a sofa
in the room, with its foot right at the door.
Have known him to be there one night
while Sickles was absent till one o'clock
in the morning. When I went to bed at 10
or 11 o'clock, I would not know how long
he remained. On these occasions there was
no person in the room but Mrs. S. and Mr.
Key.

Q. Did anything particular occur to which
your attention was called?

A. Yes, sir.

Q. Relate it to the jury.

A. I was going to bed about one o'clock.
I went to the head of the hall stairs and met
the seamstress. I stood and talked a little
with her, knowing that Key was in the room.
We thought the hall bell had rung and Key
and Mrs. Sickles came to the hall door and
looked out. Key then shut the hall door
and locked it again. They went into the
study and I heard them locking the study
door and the door that leads into the parlor.
There are two doors in the study. Heard
them locking both of these. I stood a little
while and heard them making this noise on
the sofa for two or three minutes. I men-
tioned to the girl that they are making a noise.
The girl ran away. She would not hearken
to me [laughter] as it was not language
suitable for her to hear. Heard them after
for about two or three minutes, and then I
went to bed. I knew that they wasn't at
no good work. [Laughter.] I knew that
they were there, and there was conversation
among us all. They have visited the Con-
gressional Cemetery two or three times, and
two or three times at the burying ground at
Georgetown. These visits would be made
between 1 and 3 o'clock. He would meet
us somewhere in the street. They would
walk down the grounds out of my sight, and
be away an hour or an hour and a half.
Then they would come back and drive away.
Sometimes he would ride and tie his horse.
At another time I drove her to the
gate. There was only one time when Key
rode with Mrs. S. in the carriage to the Con-
gressional Burying Ground. At another
time he rode out on his horse, tied the horse
to the railing, helped Mrs. S. out of the
carriage, and walked down the burying
ground. They staid an hour.

To the District Attorney—Every time
Mrs. S. rode out Key met her. There might
be some days he did not meet us, but very
few. We drove out nearly every day, and
he visited the house daily, but not when
Sickles was present.

Witness repeated the evidence about the
occasion when he saw Key at the house at
one o'clock at night.

Question—Did Key visit Mrs. S. on occa-
sions of Sickles' absence at night?

Answer—He always visited her at night
to my knowledge, when Sickles was away;
I cannot exactly say whether Sickles was
away at night or not. I think I drove him
once to the cars to go to Philadelphia, but
cannot say exactly whether he was away
in the evening or not. It was my impres-
sion that he was going to Philadelphia. I
did not see him get into the cars. He had
a carpetbag. Cannot say exactly when Mr.
Sickles was away but I know if he was away
any night last year or this year, I would
not be right back to the house before Key
would be there. Key was there, I recollect,
the night of Senator Gwin's party—a fancy
ball last year. About 2 in the morning
Key and Mrs. Sickles left Mr. Gwin's house
and got into the carriage together. I drove
him and her to the National Hotel. They
sat in the carriage a little while; Key got
out and bid her good night. I drove home.
I was told to drive down 8th or J. streets.
It was always Mrs. Sickles' orders given in
the presence of Key. That was the only
time I drove them from a party at night.
Mr. Sickles was at that time at home in
bed. Cannot give exactly the date of that
party. The orders to drive through the back
streets were always given by Mrs. S. Key
was always in the carriage at the time I
drove past the City Hall. One day while
Key and Mrs. Sickles were in the carriage
he came in and I stood outside till he came
out again, and then I drove to Georgetown.
This was last year—perhaps in May. I met
him almost every day in the year, and so
cannot fix any day. I drove her once to
Key's in C. street. I left him there, as we
came from the Senate, but she did not go in.
She left a card there for Mrs. Pendleton.